

**UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE**

In re

FOAMEX INTERNATIONAL INC., et al.,

Debtors.

Chapter 11

Case No. 05-12685 (KG)

(Jointly Administered)

Related to Docket Nos. 2613 and 2622

**DESIGNATION OF RECORD AND STATEMENT OF ISSUES TO BE PRESENTED ON
APPEAL OF APPELLANT REORGANIZED DEBTORS**

Foamex International Inc., Foamex L.P., Foamex Latin America, Inc., Foamex Asia, Inc., FMXI, LLC (formerly FMXI, Inc.), Foamex Carpet Cushion LLC, Foamex Capital Corporation, Foamex Mexico, Inc. and Foamex Mexico II, Inc., the above captioned reorganized debtors (collectively, the “Reorganized Debtors” or “Foamex”), pursuant to Federal Rule of Bankruptcy Procedure 8006, file this designation of record and statement of issues to be presented on appeal to the United States District Court for the District of Delaware. The Reorganized Debtors designate the following:

I. DESIGNATION OF RECORD

A. ORDER OF BANKRUPTCY COURT:

1. Order Approving the Amended Final Fee Application of Jefferies and Company, Inc., as Financial Advisor to the Official Committee of Unsecured Creditors for Final Allowance of Compensation for Professional Services Rendered and Reimbursement of Actual and Necessary Expenses (D.I. 2613)

B. APPLICATIONS AND RESPONSES:

2. Final Application of Jefferies & Company, Inc. as Financial Advisor to the Official Committee of Unsecured Creditors for Final Compensation for Professional Services Rendered and Reimbursement of Actual and Necessary Expenses Incurred for the Period October 6, 2005 through January 31, 2007, and all exhibits thereto (D.I. 2414).

3. Reorganized Debtors' Objection to Jefferies and Company, Inc.'s Final Application for Compensation for Professional Services Rendered and Reimbursement of Actual and Necessary Expenses Incurred During the Period From October 6, 2005 Through January 31, 2007, and all exhibits thereto (D.I. 2462).

4. Jefferies and Company, Inc.'s (I) Amended Final Fee Application and (II) Response to Reorganized Debtors' Objection to Final Fee Application, and all exhibits thereto (D.I. 2561).

5. Reorganized Debtors' Objection to Jefferies and Company, Inc.'s Amended Final Application for Compensation and Response to Reorganized Debtors' Objection to Final Fee Application, and all exhibits thereto (D.I. 2567).

6. Jefferies and Company, Inc.'s Response to Reorganized Debtors' Objection to Jefferies and Company, Inc.'s Amended Final Application for Compensation and Response to Reorganized Debtors' Objection to Final Fee Application, and all exhibits thereto (D.I. 2587).

7. Reply of Reorganized Debtors to Jefferies and Company, Inc.'s Response to Reorganized Debtors' Objection to Jefferies and Company, Inc.'s Amended Final Application for Compensation and Response to Reorganized Debtors' Objection to Final Fee Application, and all exhibits thereto (D.I. 2592).

8. Jefferies and Company, Inc.'s Sur-Reply to Reply of Reorganized Debtors to Jefferies and Company, Inc.'s Response to Reorganized Debtors' Objection to Jefferies and Company, Inc.'s Amended Final Application for Compensation and Response to Reorganized Debtors' Objection to Final Fee Application (D.I. 2597)

C. ADDITIONAL PLEADINGS

9. Stipulation of Facts (D.I. 2549).
10. Stipulation of Record (D.I. 2600)
11. Motion for an Order Pursuant to Section 363 and 365(a) of the Bankruptcy Code Authorizing Foamex L.P. to Assume Certain Executory Contracts, as Amended, and to Enter into Certain Related Agreements (D.I. 92).
12. Order Pursuant to Section 363 and 365(a) of the Bankruptcy Code Authorizing Foamex L.P. to Assume Certain Executory Contracts, as Amended, and to Enter into Certain Related Agreements (D.I. 206).
13. Motion of Foamex L.P. for an Order Pursuant to 365(a) of the Bankruptcy Code Authorizing Foamex L.P. to Assume an Executory Contract, as Amended, with Bayer MaterialScience LLC (D.I. 366).
14. Order Pursuant to 365(a) of the Bankruptcy Code Authorizing Foamex L.P. to Assume an Executory Contract, as Amended, with Bayer MaterialScience LLC (D.I. 453).
15. Debtors' Motion for an Order Pursuant to 365(a) of the Bankruptcy Code Authorizing Foamex L.P. to Assume an Executory Contract, as Amended, with Inolex Chemical Company (D.I. 944).
16. Order Pursuant to 365(a) of the Bankruptcy Code Authorizing Foamex L.P. to Assume an Executory Contract, as Amended, with Inolex Chemical Company (D.I. 1025).

17. Motion of Foamex L.P. for an Order Pursuant to 365(a) of the Bankruptcy Code Authorizing it to Assume an Executory Contract, as Amended, with Lyondell Chemical Company (D.I. 1377).

18. Order Pursuant to 365(a) of the Bankruptcy Code Authorizing Foamex L.P. to Assume an Executory Contract, as Amended, with Lyondell Chemical Company (D.I. 1436).

19. Motion of Foamex L.P. for an Order Pursuant to 365(a) of the Bankruptcy Code Authorizing it to Assume an Executory Contract, as Amended, with Electronic Data Systems Corporation and EDS Information Services, L.L.C. (D.I. 1533).

20. Order Pursuant to 365(a) of the Bankruptcy Code Authorizing Foamex L.P. to Assume an Executory Contract, as Amended, with Electronic Data Systems Corporation and EDS Information Services, L.L.C. (D.I. 1619).

21. Motion of Foamex L.P. for an Order Pursuant to 365(a) of the Bankruptcy Code Authorizing it to Assume an Executory Contract, as Amended, with Shell Chemical LP (D.I. 1587).

22. Order Pursuant to 365(a) of the Bankruptcy Code Authorizing Foamex L.P. to Assume an Executory Contract, as Amended, with Shell Chemical LP (D.I. 1701).

23. Motion of Foamex L.P. for an Order Pursuant to 365(a) of the Bankruptcy Code Authorizing it to Assume an Executory Contract, as Amended, with Chemtura Corporation (D.I. 1717).

24. Order Pursuant to 365(a) of the Bankruptcy Code Authorizing Foamex L.P. to Assume an Executory Contract, as Amended, with Chemtura Corporation (D.I. 1839).

25. Debtors' Motion for an Order Authorizing Payment of Prepetition Claims of Critical Vendors (D.I. 14)

26. Interim Order Authorizing Payment of Prepetition Claims of Critical Vendors (D.I. 43).

27. Final Order Authorizing Payment of Prepetition Claims of Critical Vendors (D.I. 201).

28. Motion for Order Pursuant to Fed.R.Bankr.P. 9019 and 11 U.S.C. §105 Approving the Agreement as to Credit Relationship Between the Debtors and the Dow Chemical Company Under the Debtors' Critical Vendor Program (D.I. 452).

29. Order Pursuant to Fed.R.Bankr.P. 9019 and 11 U.S.C. §105 Approving the Agreement as to Credit Relationship Between the Debtors and the Dow Chemical Company Under the Debtors' Critical Vendor Program (D.I. 591).

30. Motion for Order Pursuant to Fed.R.Bankr.P. 9019 and 11 U.S.C. §105 Approving the Agreement as to Credit Relationship Between the Debtors and BASF Corporation Under the Debtors' Critical Vendor Program (D.I. 597).

31. Order Pursuant to Fed.R.Bankr.P. 9019 and 11 U.S.C. §105 Approving the Agreement as to Credit Relationship Between the Debtors and BASF Corporation Under the Debtors' Critical Vendor Program (D.I. 681)

D. DISCOVERY MATTERS

32. Transcript of deposition of Michael Henkin taken on July 3, 2007 and all exhibits introduced at such deposition (D.I. 2598).

33. Transcript of deposition of Andrew Prusky taken on August 20, 2007 and all exhibits introduced at such deposition (D.I. 2599).

E. TRANSCRIPT OF HEARING

34. Transcript of Hearing Before the Honorable Kevin Gross on September 10, 2007 (D.I. 2620)

II. STATEMENT OF ISSUES ON APPEAL

1. Whether the Bankruptcy Court erred in holding that Jefferies was entitled to a contingent transaction fee under its Engagement Letter in the amount of \$463,221.10 based upon the amount of cure payments made by the Debtors on contracts assumed by the Debtors under section 365 of the Bankruptcy Code.

2. Whether the Bankruptcy Court erred in holding that Jefferies was entitled to a contingent transaction fee under its Engagement Letter in the amount of \$324,776.73 based upon payments made by the Debtors to critical vendors pursuant to the order approving the Debtors' critical vendor program.

3. Whether the Bankruptcy Court erred in holding that Jefferies was entitled to a contingent transaction fee under its Engagement Letter based upon future distributions made by the Reorganized Debtors pursuant to contingent and unliquidated claims that were not valued in connection with Jefferies' final fee application.

4. Whether the Bankruptcy Court erred in holding that Jefferies was not required to submit a further fee application in order to receive a contingent transaction fee on future distributions made by the Reorganized Debtors.

5. Whether the Bankruptcy Court erred in ordering the Reorganized Debtors to pay \$276,200.38 to Jefferies on account of legal fees incurred by Jefferies and \$16,305.39 to Jefferies on account of out-of-pocket expenses incurred by Jefferies' counsel.

6. Whether the Bankruptcy Court erred in establishing separate treatment relating to Jefferies' entitlement to a Transaction Fee relating to litigation claims arising from a fire in West Warwick, Rhode Island.

October 9, 2007

KLEHR, HARRISON, HARVEY,
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**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE**

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(Jointly Administered)

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on this 9th day of October, 2007, he caused a copy of the foregoing *Designation of Record and Statement of Issues to be Presented on Appeal of Appellant Reorganized Debtors*, to be served on the parties on the attached service list in the manner indicated thereon.

/s/ Michael W. Yurkewicz

Michael W. Yurkewicz (#4165)

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